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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned

Report of the United Nations High Commissioner for Human Rights

Summary

In its resolution 27/31, the Human Rights Council requested the United Nations High Commissioner for Human Rights to prepare a compilation of practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned.

In the present report the High Commissioner focuses on examples of practices that optimize civil society's transformative potential. In this regard, he identifies five essential ingredients: a robust legal framework compliant with international standards that safeguards public freedoms and effective access to justice; a political environment conducive to civil society work; access to information; avenues for participation by civil society in decision-making processes; and long-term support and resources for civil society.

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Contents

		Page
I.	Introduction	3
II.	Conditions for creating and maintaining civil society space: good practices	4
	A. Supportive legal framework and effective access to justice	4
	B. Conducive public and political environment	7
	C. Access to information	9
	D. Participation in policy development, planning and decision-making	9
	E. Long-term support and resources for civil society organizations	14
III.	Conclusion	17
IV.	Recommendations	17
	A. To Member States	17
	B. For regional and international entities	19

I. Introduction

1. In its resolution 27/31, the Human Rights Council, recognizing the crucial importance of the active involvement of civil society, at all levels, in promoting good governance, including through transparency and accountability, which is indispensable for building peaceful, prosperous and democratic societies, requested the United Nations High Commissioner for Human Rights to prepare a compilation of practical recommendations for the creation and maintenance of a safe and enabling environment for civil society, based on good practices and lessons learned.

2. To this end, on 28 April 2015, the Office of the United Nations High Commissioner for Human Rights (OHCHR) sent notes verbales to Member States, national human rights institutions, civil society organizations and international and regional organizations, followed by a reminder on 8 July 2015. A total of 89 responses were received, demonstrating the importance given to the issues addressed in resolution 27/31.[1]

3. The present report reflects input from all regions, based on contributions received from Member States, national human rights institutions and diverse civil society actors, including international and regional networks, academics and faith-based organizations, as well as United Nations and regional entities.

4. In a context of shrinking civil society space worldwide, it is important to share practices that highlight the benefits of creating and maintaining an enabling environment for civil society. In the present report the High Commissioner focuses on examples of proactive practices that optimize civil society's transformative potential.[2] He identifies five ingredients which are essential in this regard: a robust legal framework compliant with international standards and a strong national human rights protection system that safeguards public freedoms and effective access to justice; a political environment conducive to civil society work; access to information; avenues for participation by civil society in policy development and decision-making processes; and long-term support and resources for civil society.

5. According space to civil society is not optional. International human rights law places an obligation on States to respect rights and freedoms that are indispensable for civil society to develop and operate, including the freedoms of opinion and expression, peaceful assembly and association and the right to participate in public affairs. International law also protects the lives, liberty, physical integrity and privacy of civil society actors from arbitrary State interference.

6. Even if the law did not require it, there are compelling reasons to protect civil society space. Effective avenues for civic participation contribute to societal cohesion and give people, including minorities and those at the margins of society, a way to make their voices heard. Civil society also plays a crucial role in facilitating participation in public life and can allow people to contribute to policy development, and even decision-making. There is also a persuasive business and economic case for a strong civil society. Indeed, business and civil society have a shared interest in an environment that respects the rights to freedom

[1] While it was not possible to reflect all the submissions received in the present report, they can be found at www.ohchr.org/EN/AboutUs/Pages/ReportHConCivilSociety.aspx.

[2] Measures to restrict civil society activity are described at length in various reports of United Nations independent experts to the Human Rights Council as well as reports and statements by the United Nations High Commissioner for Human Rights and the reports of the Secretary-General on reprisals against individuals and groups for cooperating with the United Nations.

of expression and association, is pluralistic and non-discriminatory, upholds the rule of law and promotes transparency and access to information.

7. Allowing voices to be heard, even when they express criticism or unpopular views, is key to holding decision makers to account and to ensure that policies are reviewed, lessons learned and improvements made. Countries where civil society space is protected reap significant dividends in terms of long-term stability.

8. Vibrant civil society participation in the United Nations human rights system is indispensable to the effective protection and promotion of human rights. Civil society actors identify protection and other gaps in the international architecture, alert the international community of impending crises and campaign for the creation of new standards and mechanisms. Their participation enriches the system's responses by linking them to what is happening at the country level.

9. Yet, civil society is under attack in too many places, and with an increasing variety of weapons. States that seek to restrict civil society space continue to find creative ways to put pressure on civil society, whether by restricting freedoms by law or resorting to repressive and violent methods to silence voices perceived as critical. Such approaches are easily and increasingly replicated in all regions. Civil society also faces threats from other actors, such as non-State armed groups. There are a growing number of allegations of intimidation and threats against civil society actors, including environmental and land rights activists, by the private sector as well. In many countries, women civil society actors face disproportionately adverse reactions, based on discriminatory stereotypes, by both State and non-State actors attempting to delegitimize their work and isolate them from their communities.

10. The OHCHR global thematic strategy, "Widening the democratic space", provides a framework to strengthen work with civil society, supporting efforts to expand and protect civil society space. The Office implements this priority through over 500 activities at headquarters and in its field presences worldwide.

11. Civil society engagement can be viewed as a threshold issue: if space exists for civil society to engage, there is a greater likelihood that all rights will be better protected. Conversely, the closing of civil society space, and threats and reprisals against civil society activists, are early warning signs of instability. Over time, policies that delegitimize, isolate and repress people calling for different approaches or legitimately claiming their rights can exacerbate frustrations and lead to instability or even conflict.

II. Conditions for creating and maintaining civil society space: good practices

A. Supportive legal framework and effective access to justice

1. Legislation

12. The right to freedom of opinion and expression and to peaceful assembly and association and the right to participate in public affairs, together with the principle of non-discrimination[3] serve as vehicles for civic activity. It is through the safe and free exercise of

[3] These rights are guaranteed by the International Covenant on Civil and Political Rights (arts. 19, 21, 22 and 25); the International Covenant on Economic, Social and Cultural Rights (arts. 8 and 15); the Convention on the Elimination of All Forms of Discrimination against Women (art. 3); the International Convention on the Elimination of All Forms of Racial Discrimination (art. 5); the

these human rights that people are able to contribute to political, social, cultural and economic development.

13. Constitutions across all regions guarantee the right to freedom of opinion and expression and to peaceful assembly and association, the right to participate and the principle of participatory democracy. Yet the gap between the text and the everyday exercise of public freedoms can be significant. A comprehensive legal framework (e.g., legislation, by-laws and administrative rules and practices) that is compliant with the international standards protecting public freedoms is a prerequisite to creating and maintaining a safe, enabling environment for civil society to carry out activities.

Freedom of opinion and expression

14. In its general comment No. 34 (2011) on the freedoms of opinion and expression, the Human Rights Committee states that a free, uncensored and unhindered press or other media is essential in any society to ensure freedom of opinion and expression and the enjoyment of other rights contained in the International Covenant on Civil and Political Rights; it constitutes one of the cornerstones of a democratic society. The European Court of Human Rights has consistently supported civil society's role in bringing matters of public interest to open debate.[4] Media contribute to public space where matters of public interest are debated and give voice to diverse perspectives, including to indigenous or minority communities, refugees and migrants, in diverse languages, in print and online, including in versions accessible for persons with disabilities.

15. In Croatia, independent and pluralist media freely monitor and report on human rights issues, acting as a watchdog.[5] Civil Space Initiative cited laws in Argentina and Uruguay as positive examples of the redistribution of broadcast frequencies to counter media monopolies.[6] In Austria, the Ombudsman Board features in a weekly television programme to inform the public and openly discuss sensitive matters such as complaints of maladministration and human rights issues. Panel debates or phone-ins featuring public officials together with representatives of civil society assist in information sharing, provide an opportunity to hear different viewpoints and contribute to transparency and informed decision-making. In El Salvador, television and radio programmes provide an opportunity for questions to be raised and addressed publicly.[7]

Freedom of association

16. Minimal legal and administrative provisions, favouring simple notification to a neutral body and available to all at little or no cost, with no compulsory registration requirement for basic operations, best encourage a diverse and independent civil society. The Constitution of Montenegro recognizes that forming an association is a right that requires no form of approval; it is applicable to children from the age of 14 years.[8] In

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Convention on the Rights of the Child (arts. 13 and 15); the Convention on the Rights of Persons with Disabilities (arts. 21, 29 and 30); the International Convention for the Protection of All Persons from Enforced Disappearance (art. 24); and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 26).

[4] See *Steel and Morris v. United Kingdom*, application No. 68416/01, judgment of 15 February 2005.

[5] Permanent Mission of Croatia to the United Nations Office at Geneva.

[6] Civic Space Initiative is a consortium composed of the International Centre for Not-for-Profit Law/ European Centre for Not-For-Profit Law, Article 19: International Centre against Censorship, CIVICUS: World Alliance for Citizen Participation and the World Movement for Democracy.

[7] Permanent Mission of El Salvador to the United Nations Office at Geneva.

[8] Permanent Mission of Montenegro to the United Nations Office at Geneva.

Finland, online notification is sufficient to register a civil society organization[9] and unregistered organizations operate freely, in line with recommendations of United Nations experts.

17. Systems for self-regulation or co-regulation have been developed or are being piloted in Norway and the Netherlands, providing for civil society organizations to work under the auspices of, and report to, umbrella organizations, which reduces the need for administrative resources and administrative costs and favours independence.[10]

18. In Mexico and Côte d'Ivoire, laws have been enacted that specifically protect human rights defenders, drawing on the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms, commonly known as the Declaration on Human Rights Defenders.[11] The commentary to the Declaration provides advice on how to implement the Declaration, giving examples of good practice relevant to the creation and maintenance of civil society space. Reports of the Special Rapporteur on the situation of human rights defenders (for example, A/HRC/31/55 and A/HRC/25/55) provide similarly useful guidance.

Freedom of peaceful assembly

19. A presumption that assemblies will be peaceful, explicitly established by law, as in Armenia and Romania, is recognized good practice,[12] as are laws that specify that everyone has the right to organize and participate in meetings and demonstrations without a permit and that no prior authorization is required; however, where the number of demonstrators is likely to exceed 50, notification may be required, as in the Republic of Moldova. Stewards appointed and trained by the organizers can guide and assist demonstrators (A/HRC/20/27).

Right to participate in public affairs

20. The constitutions of some countries, for example Ecuador, elaborate on the equal rights and opportunities for women and men, and the collective rights of indigenous peoples and nationalities, to participate in State institutions and political bodies.[13] Similar provisions relate to citizens' leading role in decision-making, planning and management of public affairs, popular control of State institutions and audit or scrutiny of government actions. Further, the protection of public freedoms is essential for elections to be safe, fair and credible (see A/68/299, para. 56).

2. Access to justice

21. Access to justice through an independent and effective judiciary, as well as access to national human rights institutions and to regional and international human rights mechanisms, is integral to a supportive legal framework for civil society actors. An

[9] Permanent Mission of Finland to the United Nations Office at Geneva. See also reports of the Special Rapporteur on the rights to freedom of peaceful assembly and of association (A/HRC/20/27 and A/HRC/23/39).

[10] Civic Space Initiative.

[11] International Service for Human Rights.

[12] Commentary to the United Nations Declaration on Human Rights Defenders; Organization for Security and Cooperation in Europe/Office for Democratic Institutions and Human Rights (OSCE/ODIHR) Panel of Experts on Freedom of Peaceful Assembly, *Guidelines on Freedom of Peaceful Assembly*, 2nd ed. (Warsaw, 2010).

[13] Ombudsman of Ecuador.

independent judiciary ensures the implementation of international human rights standards and inspires the confidence of all stakeholders.

22. Courts must be able to review, in a timely manner, sanctions by State authorities against civil society organizations to assess whether such measures are legitimate, necessary and proportionate. For instance, when the Registry of Associations refused to register an association monitoring the human rights of lesbian, gay, bisexual, transgender and intersex individuals on the grounds that it contravened public order, law and morals, the Constitutional Court of El Salvador reaffirmed the right to register of associations established for lawful purposes and ordered that the association's request for registration be considered regardless of the gender identity or sexual orientation of those concerned.[14] The Constitutional Court of Turkey examined a ban on accessing YouTube and Twitter, finding a violation of the right to freedom of information and expression.[15]

23. As national human rights institutions can contribute substantively to maintaining civil society space, their regulatory framework must be guaranteed by laws that fully comply with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) to ensure their independence and effective functioning.[16] In Australia[17] and the Netherlands,[18] for example, institutions have also been created to promote and protect the rights of specific groups, such as an ombudsman for children, persons with disabilities and indigenous communities, in addition to anti-discrimination monitoring bodies, all of which work closely with the national human rights institution.

24. Constitutional provisions may also explicitly guarantee the primacy of international law over national law and the right of individuals and associations to have recourse to international and regional bodies, mechanisms and courts. Moreover, they may provide for the implementation of decisions of international bodies.

25. Access to some regional mechanisms, including courts, can be an effective way to seek justice when the national judiciary is fragile or lacks independence. Modalities for civil society engagement with such mechanisms vary. The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights were cited by the Government of El Salvador,[19] among others, as affording easy and direct access for individuals and civil society groups wishing to bring cases and petitions for consideration, while Burkina Faso[20] noted civil society's engagement with the African Court for Human and Peoples' Rights and the African Commission on Human and Peoples' Rights.

B. Conducive public and political environment

26. Ensuring that public freedoms are guaranteed by law and upheld by institutions is certainly a foundation for an enabling environment for civil society to work freely and independently. But it must be complemented by a political culture that recognizes the value of civil society and encourages its engagement. In pursuance of target 17.17 of the Sustainable Development Goals, States should encourage and promote effective public,

[14] Permanent Mission of El Salvador to the United Nations Office at Geneva.
[15] Civic Space Initiative.
[16] The national human rights institutions of Austria, Azerbaijan and Guatemala, among others.
[17] Permanent Mission of Australia to the United Nations Office at Geneva.
[18] Permanent Mission of the Netherlands to the United Nations Office at Geneva.
[19] Permanent Mission of El Salvador to the United Nations Office at Geneva.
[20] Permanent Mission of Burkina Faso to the United Nations Office at Geneva.

public-private and civil society partnerships, building on the experience and resourcing strategies of partnerships.

27. High-level messages, awards and honours send important signals to the public concerning the value of civil society's contributions, as do annual commemorative events such as the International Day of Democracy or Human Rights Day, among many others.

28. Changing terminology sends a powerful signal, as in the case of the Council of Europe, which acknowledged civil society's contribution by changing the consultative status of international non-governmental organizations (NGOs) to participatory status.

29. Nurturing a culture of volunteerism by enabling students to work with civil society organizations, as is the case of human rights organizations in Hungary, has the potential to increase young people's interest in civil society work.[21] Initiatives offered by the business community, including by law firms and networks, volunteer projects or working for part of a year with civil society are similarly supportive of an environment conducive to civil society activity.

30. States that have retained compulsory military service often provide for alternative service, including working for a civil society organization, demonstrating that working for civil society is an equally valid way for citizens to serve their country.

31. Addressing threats and attacks targeting civil society actors should be part of building a tolerant culture. For instance, the Government of Guatemala[22] has recognized specific protection needs and established units to analyse attacks on human rights defenders comprised of officials from the Interior Ministry, the Prosecutor's Office and the Human Rights Presidential Commission, in addition to civil society representatives, to provide a safe space for debate and explore effective preventive and protection options.

32. Use of derogatory terminology to delegitimize civil society actors, for instance labelling them "foreign agents", "moles" or "unpatriotic" in laws or in State-supported media, generally aims to deter criticism, discourage free expression, increase negative public opinion of civil society actors and distract attention from the issues at stake. States have an obligation to protect people from acts by private individuals or entities that would impair the enjoyment of freedom of opinion and expression.[23]

33. The Council of Europe signed a memorandum of understanding with several international NGOs and networks concerned with press freedom and launched an Internet platform to promote the protection of journalism and the safety of journalists. Efforts are ongoing within United Nations human rights mechanisms to expand the space for civil society and provide a safe and enabling environment for civil society within United Nations premises. And yet, civil society actors continue to face reprisals and intimidation because of their engagement with the United Nations, as described in the Secretary-General's report on reprisals (A/HRC/30/29) and as noted by the High Commissioner in his address to the Human Rights Council at its thirtieth session. Many human rights mechanisms have developed their own systems, or designated rapporteurs, to address cases of reprisal, including the human rights treaty bodies' guidelines against intimidation or reprisals ("San José Guidelines").

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[21] Civic Space Initiative.

[22] Permanent Mission of Guatemala to the United Nations Office at Geneva. See also the report of the United Nations High Commissioner for Human Rights on the activities of his office in Guatemala (A/HRC/28/3/Add.1 and Add.1/Corr.2).

[23] Human Rights Committee, general comment No. 34, para. 7; Promo-LEX.

C. Access to information

34. Access to information, which is part of freedom of expression, is especially important for civil society organizations in conducting their work effectively. The public needs access to diverse sources of information to become informed about issues that affect their lives, articulate concerns, engage constructively and contribute to solutions.[24] Finland's national human rights institution notes that Finnish legislation encourages transparency by considering information to be in the public domain unless a specific act designates the contrary.

35. The Constitution of South Africa provides that everyone has the right of access to any information held by the State and any information held by another person that is required for the exercise or protection of any rights. Similar language can be found in the 2013 Right to Access Information Act of Sierra Leone. In Brazil, legislation providing that information relating to human rights violations may not remain secret, and the decision to open up past State archives to the public, were cited as good examples.[25]

36. The introduction of webcast and remote participation of NGOs through the delivery of video messages at sessions of the Human Rights Council and the treaty bodies bring greater transparency and understanding of international human rights mechanisms and allow NGOs to obtain critical first-hand information. Meetings held between officials and civil society after such events can boost effective follow-up of observations and enrich processes for implementation of recommendations.

D. Participation in policy development, planning and decision-making

37. "Nothing about us without us" was a slogan commonly associated with the disability rights movement in the drafting process of the Convention on the Rights of Persons with Disabilities. Development outcomes have better chances to be sustainable when related decision-making is transparent and when diverse views and information are considered by decision makers. The involvement of diverse actors leads to more comprehensive representation of the population and enriches both the process and outcome.

1. Mutual benefits of collaboration

38. Various multi-stakeholder initiatives (e.g., alliances of Governments, national human rights institutions and civil society actors such as academic institutions, business enterprises and foundations, sometimes involving the United Nations or regional organizations) demonstrate the mutual benefits of collaboration by pooling expertise, opening up space for dialogue and providing financial backing to seek sustainable solutions to major issues.[26]

39. In Tunisia, joint endeavours by Government, business, trade unions and human rights actors created fresh approaches to countering terrorism and building and maintaining a peaceful society grounded in respect for the rule of law and human rights (see A/HRC/27/33, paras. 32-35). According to the Government of Cuba, ongoing consultations

[24] Amis des étrangers au Togo.
[25] Civic Space Initiative.
[26] United Nations Working Group on Business and Human Rights, *Guidance on National Action Plans on Business and Human Rights*, version 2.0 (Geneva, 2015).

on a wide range of issues engage all citizens in helping solve the country's most pressing problems, including complex economic reforms and rising prices.[27]

40. Countries in transition, in particular, are often dependent on expertise and services provided by civil society. The State may devolve humanitarian services to civil society and proactively engage it in processes to develop a new constitution, laws governing State institutions and elections, as well as in problem-solving and planning for the future.[28]

41. A State-civil society partnership plan involving El Salvador,[29] Guatemala and Honduras has been developed to improve the lives of young children and address humanitarian and social problems associated with unaccompanied children migrating to the United States.

42. State-civil society consultations regarding policy development for specific sectors, such as persons with disabilities, have resulted in the design and implementation of joint plans to advance the participation of persons with disabilities in public affairs and social integration, for example in Lithuania. In Ecuador, meetings with civil society groups and families of disappeared persons have led to positive policy recommendations, while consultations with groups representing persons of African descent resulted in commitments to work jointly to counter discrimination.[30]

43. The role of civil society in advancing social care, carrying out work in the context of humanitarian or other emergencies or accessing remote communities, sometimes in risky conditions, underscores the importance of joint design and planning of projects with Governments, as reported, for example, by the Government of Qatar.[31] Thus, in West Africa, cooperation among all concerned actors, including civil society, strengthened efforts to eradicate Ebola.[32] The involvement of organizations from the outset as partners with ministries in developing strategies and mechanisms for implementation and in the review and design and costing of projects contributes to greater effectiveness and relevance.

44. Civil society actors themselves constantly create space, crossing national and regional divides, uniting diaspora communities and organizing international and regional consultations to address common concerns,[33] and set up networks and coalitions for specific events or activities.[34] For example, in Colombia, dozens of families, with support from the Inter-Church Justice and Peace Commission and Peace Brigades International, joined forces to create a humanitarian space for the community in a particularly violent environment, working to protect civilians by prohibiting the entry of illegal armed groups.[35] Messages delivered by faith-based groups and religious leaders play an influential role within their respective communities, encouraging tolerance, cautioning against incitement to hatred and violence and addressing issues such as domestic violence. Leaders of different faiths united in their support for assistance to refugees and migrants contribute to expanding space for debate.[36]

45. Academic institutions can provide a safe environment in which diverse views are expressed and challenged and lend themselves well to partnerships with civil society that

[27] Permanent Mission of Cuba to the United Nations Office at Geneva.
[28] Permanent Mission of the Czech Republic to the United Nations Office at Geneva.
[29] Permanent Mission of El Salvador to the United Nations Office at Geneva.
[30] Ombudsman of Ecuador.
[31] Permanent Mission of Qatar to the United Nations Office at Geneva.
[32] United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women).
[33] Asia Democracy Network.
[34] Fiji Women's Rights Movement.
[35] Peace Brigades International.
[36] Persons Against Non-State Torture.

encourage creativity, combining theoretical and practical approaches.[37] Similarly, artists often contribute to social activism (see A/HRC/27/33, paras. 28-29). Free artistic expression can communicate beyond boundaries, provoke, challenge ideas and prejudices, expose injustice, human rights abuses or corruption and foster community interests and cooperation.

2. Consultation processes

46. States' formal and informal consultations with civil society have increased mutual understanding, built trust and enhanced the potential for collaboration.[38] Good practices regarding participatory processes are reflected in numerous United Nations reports, including those regarding participation in public affairs (A/HRC/30/26) and the right to participation of people living in extreme poverty (A/HRC/23/36). Predictability of processes, an inclusive approach and diverse means of communication, accompanied by realistic time frames, are prerequisites for meaningful consultation and debate. Making documents available in minority languages, for example, and in formats accessible to persons with disabilities enhances inclusiveness and facilitates participation.

47. In El Salvador, to enhance diversity and participation, institutional mechanisms facilitate consultation. These include the President's Economic and Social Council, which is a space for broad-based participation involving those who have traditionally been excluded or marginalized.

48. The Coordination Council of the Government of Kazakhstan holds two meetings per year on interaction with NGOs, with representatives of NGOs and relevant government officials. The Council develops instructions for the implementation of decisions on social issues discussed during its sessions.[39]

49. According to the Government, in the Russian Federation steps to regulate and facilitate interaction between civil society organizations and State institutions include the formation of a council of independent experts under the authority of the President to provide advice on human rights and propose measures to strengthen citizen participation in public affairs, as well as a government commission to coordinate activities of "open government" and facilitate interaction between the executive authority and civil society.[40]

50. Regional institutions, mechanisms and meetings provide invaluable opportunities for civil society engagement, particularly where national space is restricted. Regional meetings can assist cooperation among civil society actors facing similar challenges and provide support for civil society in countries in crisis, offering a safe environment in which to express solidarity and brainstorm on ways forward.[41]

51. Multiple online participation platforms and social media services enable the public at large to initiate or participate in discussions that concern them.[42] According to the Government, in Bahrain such services are provided for young people in particular.[43] In Finland, an innovative project was piloted to encourage consultation and address poor levels of participation in traditional political life. This consisted of forming a citizens'

[37] Right Livelihood Award Foundation.
[38] Permanent Mission of Switzerland to the United Nations Office at Geneva.
[39] Permanent Mission of Kazakhstan to the United Nations Office at Geneva.
[40] Permanent Mission of the Russian Federation to the United Nations Office at Geneva.
[41] Asia Democracy Network.
[42] Permanent Mission of Finland to the United Nations Office at Geneva.
[43] Permanent Mission of Bahrain to the United Nations Office at Geneva.

council with members selected at random and working mainly online, complemented by meetings.[44]

52. Municipal-level consultations can be facilitated by materials produced centrally and adapted for local use, together with assistance to local councils on working with civil society, including the media, and technical support to create local websites. Children's councils at the municipal level help children to participate in decision-making on issues that affect them and develop their understanding of political processes.[45]

53. As for other United Nations mechanisms, the work of human rights treaty bodies as well as of special procedures mandate holders is inconceivable without civil society input, which adds to the relevance and credibility of the conclusions and recommendations resulting from the experts' deliberations. Some States have taken the positive step of consulting with civil society in drafting their reports to the mechanisms, in addition to encouraging independent civil society submissions.

54. The universal periodic review, which requires consultation in the preparation of State reports and encourages broad-based input from civil society, has generally proved helpful in fostering dialogue between State institutions and diverse civil society sectors. Maintaining this dialogue is all the more valuable for the implementation of recommendations and to monitor progress.

55. In many countries, OHCHR field presences host or facilitate a wide range of partnerships as well as multi-stakeholder initiatives. They include a national platform for dialogue on business and human rights in Malawi and a thematic-based task force in Uruguay involving Government and civil society for follow-up to the universal periodic review and other human rights-related recommendations.

56. OHCHR and other United Nations entities working at the country and regional levels play a convening role, providing a safe and neutral environment for civil society actors to discuss and support endeavours to create networks with common interests[46] and facilitate dialogue between government officials and civil society actors. For example, recognizing civil society's crucial role in securing progress on the Millennium Development Goals, the United Nations Development Programme (UNDP) helped to create space at the global, regional and country levels to dialogue with government counterparts on how to improve policy and legal environments to stem HIV epidemics.[47]

57. Despite the many opportunities for civil society in United Nations forums, the different mechanisms, modalities and requirements may seem confusing or alienating to smaller organizations or online networks. In particular, the requirement to obtain consultative status with the Economic and Social Council to participate in most intergovernmental meetings, including the Human Rights Council, is seen as a barrier to participation in the work of the United Nations. Moreover, the deferral of a large number of NGO applications for consultative status, sometimes for years[48] and reportedly for arbitrary reasons, has deprived international debate of important civil society contributions.[49]

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[44] Human Rights Centre, Finland.

[45] Save the Children.

[46] United Nations Development Programme (UNDP); UN-Women.

[47] UNDP.

[48] International Dalit Solidarity Network.

[49] These and other challenges were the subject of a consultation convened by the Office of the Director-General of the United Nations Office at Geneva. See "The United Nations and civil society - 70 years working together: how do we make a difference from Geneva?", summary report, June 2015.

3. Drafting and review of legislation

58. In Lithuania[50] draft laws are posted online for comments and feedback. In Finland, consultation processes on draft legislation last a minimum of six weeks and result in a summary of the consultation process and comments received, which is presented to the legislature together with the bill. Citizens, with the support of 50,000 registered voters, can also propose changes to and repeal of laws or introduce new laws. Thus, a civil society-led campaign to legalize same-sex marriage in Finland garnered sufficient popular support, leading to parliamentary approval in 2014. The establishment of parliamentary joint committees on human rights with representation from civil society, as in Australia, can provide a more direct forum for civil society to engage with parliaments on legislative matters.[51]

59. Proactive measures to engage civil society and national human rights institutions in drafting processes can uncover gaps and missing information. In Austria, the national human rights institution took the lead in working with civil society organizations to draft the act to implement the country's ratification of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.[52]

60. International and regional human rights mechanisms can also play a critical role in improving legislative processes and texts. Thus, the Special Rapporteur on Freedom of Expression and Access to Information of the African Commission on Human and Peoples' Rights advanced freedom of information legislation by holding extensive consultations with Governments and civil society prior to drafting a model law, which was eventually adopted by several African States.[53] More generally, many mechanisms provide useful guidance to ensure that legislation, in many areas, is compliant with international human rights norms and standards. For instance, the Special Rapporteur on the promotion and protection of human rights while countering terrorism has provided recommendations to ensure that laws on national security and counter-terrorism, money-laundering and incitement to hatred address legitimate concerns without encroaching on human rights and civil society activity (see, for example, A/HRC/16/51). The active participation of experts from civil society and national human rights institutions and academics in drafting and review processes helps to safeguard the protection of public freedoms.[54]

4. Policy monitoring and review

61. Ongoing policy monitoring is crucial to assess the performance of systems and processes and to adapt them as needed. It is important that consultations and monitoring be broadly based and not confined to habitual partners. Integrating new civil society organizations or grass-roots networks, irrespective of whether they are formally registered, can energize such processes.[55] Vigilance is required in State-civil society arrangements to preserve the independence of the latter.

62. In some cases, bodies composed of individuals from beneficiary communities are established to review government project performance. For example, in El Salvador, citizen oversight committees were established, and trained by the Institute for Municipal Development, to monitor project implementation and ensure transparency and

[50] Permanent Mission of Lithuania to the United Nations Office at Geneva.
[51] Permanent Mission of Australia to the United Nations Office at Geneva.
[52] Ombudsman Board of Austria.
[53] Civic Space Initiative. See also www.achpr.org/instruments/access-information.
[54] Civic Space Initiative.
[55] Comitato per la Promozione e Protezione dei Diritti Umani, Italy; Human Rights Consortium, Scotland.

accountability in the management of funds. The Government of Finland developed a national report reviewing past practices with a view to strengthening implementation of future democracy policy.[56]

63. Independent media regulatory bodies can help to assure pluralism and independence and guard against incitement to hatred and other abuses. This is the case of the independent media regulatory body of Tunisia, the Haute autorité indépendante de la communication audiovisuelle, which was established by the Constitution and bases its work on international human rights standards. In 2014, a civil society network to monitor incitement to hatred in the regional media was created in Tunisia, with support from OHCHR, in accordance with the Rabat Plan of Action on the prohibition of advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility or violence (see A/HCR/22/17/Add.4).

E. Long-term support and resources for civil society organizations[57]

64. States can create and maintain an enabling environment for civic activity by investing in the development of civil society, taking measures to build participation capacities, especially for marginalized voices, and facilitating access to diverse funding sources and technology. Empowering and strengthening civil society capacities contribute to a protective environment (A/HRC/31/55).

1. Education, awareness-raising and training

Human rights education

65. Equipping children and young people with information and skills to participate in public life contributes to the growth of civil society space.

66. Human rights education programmes and resources are produced by States, academic institutions, national human rights institutions and civil society, often in partnership. Benefits are optimized when teachers receive ongoing training in civic or human rights education and when the substantive curriculum is complemented by a school culture which encourages tolerance and values diversity.

67. Bearing in mind the receptiveness of very young children, investment in civic education should begin in primary school, with support from the home environment. In Finland, measures to encourage young people to become more engaged in societal affairs have involved strengthening education in democracy, equality and human rights and the introduction of a postgraduate degree in civil society.

68. Joint awareness campaigns by Governments, national human rights institutions and civil society can encourage political participation or engagement to combat racism and other forms of discrimination. An example is the anti-racism campaign in Australia. Creative campaigns using different media and championed by multiple sectors of society, including well-known personalities, can change public behaviours, combat stigmatization and create an environment where people feel that it is safe to speak out.

[56] Human Rights Centre, Finland.

[57] See the references to empowerment in the report of OHCHR on promotion, protection and implementation of the right to participate in public affairs in the context of the existing human rights law: best practices, experiences, challenges and ways to overcome them (A/HRC/30/26) and the report of the Special Rapporteur on extreme poverty and human rights focusing on participation by people living in poverty (A/HRC/23/36).

Capacity-building

69. Recognizing the value of a free and dynamic civil society, several countries, including Croatia, the Czech Republic and Lithuania, have prioritized investment in its development and professionalization. Examples of training for civil society include specialist programmes in Burkina Faso, training of members of groups experiencing discrimination, including persons with disabilities,[58] on participation in public affairs and the inclusion of civil society actors in government delegations to international forums to expose them to international meetings and hone their advocacy and negotiation skills. OHCHR field presences also provide human rights training for civil society.

70. In Croatia, training raises the awareness of public officials working at the national and local levels of the importance of cooperation with civil society. Training programmes for public officials are often developed and co-presented with civil society representatives from different sectors and in some cases are linked with training on related international human rights standards and implementation of human rights recommendations. Empowering women and girls through programmes to strengthen their skills is critical. The presidential programme Ciudad Mujer, run by the Ministry of Social Inclusion of El Salvador, provides a safe and supportive environment where women can receive advice on human rights and training in business and technical support.

71. OHCHR field presences provide information and advice to civil society groups, organizing training sessions and seminars to strengthen their human rights advocacy and facilitate engagement with the United Nations human rights system.[59]

2. Funding

72. Predictability of core funding is fundamental for civil society organizations to work effectively and independently, undertake long-term planning and adapt to evolving situations.[60] As noted by the Special Rapporteur on the rights to freedom of peaceful assembly and of association, the right to freedom of association includes the ability to seek, receive and use resources – human, material and financial – from domestic, foreign and international sources (see A/HRC/23/39, para. 8).

73. Steps to stimulate the financial independence of civil society organizations include tax exemption and simpler taxation requirements, as in Croatia; reducing and simplifying financial reports and audits; and reduced bank interest rates and transfer costs,[61] with tax incentives for business and other donors, as in the Czech Republic.

74. Funding for civil society activities may be channelled via open and transparent processes from State or private lotteries and other games of chance, as in the Netherlands, Sweden and the United Kingdom of Great Britain and Northern Ireland; from foundations;[62] or through dedicated budget lines in respective ministries, as in Burkina Faso. Donor flexibility is important to ensure that funds are available for long-standing civil society partners and to create opportunities for informal groups and non-traditional actors.[63] The Government of Japan developed a system of bestowing legal personality on organizations that engage in specified non-profit activities to promote the development of

[58] International Disability Alliance.

[59] OHCHR, *Civil Society Space and the United Nations Human Rights System: A Practical Guide for Civil Society* (Geneva, n.d.).

[60] Open Dialog Foundation, Brussels; European Network of Political Foundations.

[61] OSCE/ODIHR.

[62] Civic Space Initiative.

[63] Freedom House.

citizens' free social action programmes as well as a system to provide certification for specified non-profit corporations that help to promote the public interest through appropriate business activities with fair management structures.[64]

75. Where no restrictions on the receipt of foreign funds apply to State institutions or businesses, the same should apply to civil society organizations. The law may provide requirements for the audit of accounts, carried out by an independent body.[65] Any restrictions on access by civil society organizations to funding should be prescribed by law, necessary in a democratic society and proportionate to the interest to be protected and applied on a case-by-case basis. Where concerns exist regarding national security, terrorism, money-laundering or similar serious matters, an assessment should be carried out by a competent independent body.

76. Almost all United Nations bodies, funds and agencies have some provision for grants and funds in support of civil society, including UN-Women, UNDP and OHCHR.[66]

3. Access to communications technologies and connectivity

77. A free, open, safe and secure Internet is indispensable to access diverse sources of data and analysis, to enable individuals to make well-informed decisions and to mobilize people to call for justice, equality, accountability and better respect for human rights (see A/HRC/17/27, para. 2). Increasingly, online information sharing and activism create a dynamic constituency in the campaign for change, particularly among young people, who often pioneer such initiatives. Clear messaging and simple action have created broad-based awareness, open discussions and campaigning capacity far beyond national borders.

78. Online communication and social media are increasingly used by States to reach out to young people and other sectors that may be underrepresented in more traditional forms of political debate and organization.

79. Many civil society actors have developed their own online space, sometimes creating formal networking structures. Communicating online with others to strategize and collaborate to achieve shared goals, exchange experiences or demonstrate solidarity serves to expand space and reduce isolation or marginalization, as experienced by environmental and land rights defenders or lesbian, gay, bisexual, transgender and intersex activists working in unsafe and undermining environments.[67]

80. The provision of information and communications technology (ICT) services to people living in remote or rural communities, who are likely to be more disadvantaged in terms of access than those in urban areas, helps to address technology gaps (see A/HRC/27/33, para. 22). Indigenous communities, refugees, migrants and internally displaced persons have benefited from free or low-cost ICT to assist their access to information and facilitate their participation in public life and decision-making processes affecting them.

81. Privacy, anonymity, encryption and digital security are central concerns for Internet users (A/HRC/29/32). Human rights principles must be fully integrated into surveillance initiatives to avoid mass surveillance or abuse of "targeted" surveillance measures and hacking of personal e-mail accounts and hijacking, blocking or closure of websites.

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[64] Permanent Mission of Japan to the United Nations Office at Geneva.
[65] OSCE/ODIHR.
[66] OHCHR, *Human Rights Funds, Grants and Fellowships: A Practical Guide for Civil Society* (Geneva, n.d.).
[67] Association for Progressive Communications.

III. Conclusion

82. **The exercise of public freedoms, which is quintessential for civic activity, is among the most important investment policies for prosperity, stability and peace. As the Secretary-General noted in his statement, made on 15 September 2015 on the occasion of the International Day of Democracy, progress and civic participation go hand in hand; a confident nation gives citizens a say and a role in the development of their country. Governments on their own do not have all the answers, and it is in their interest to dismantle barriers to the exercise of public freedoms to make it easier to unleash the creativity and ingenuity of civic activity to produce solutions.**

83. **The five key elements to create and maintain a safe and enabling environment for civil society are: a robust legal framework that is compliant with international standards as well as a strong national human rights protection system that safeguards public freedoms and ensures effective access to justice; a political environment conducive to civil society work; access to information; avenues for participation by civil society in decision-making processes; and long-term support and resources for civil society. By creating such conditions, Governments, the international community and other stakeholders will be better positioned to foster a climate of trust and cooperation in the interest of all people, at the local, national and global levels.**

IV. Recommendations

A. To Member States

84. **In the context of a supportive legal framework and access to justice, Member States should:**

(a) **Protect, by law and in practice, those rights that are necessary for civil society actors to operate, including the rights to freedom of opinion and expression and peaceful assembly and association and the right to participate in public affairs, including online;**

(b) **Review and repeal or amend all legal provisions that impede the free and independent work of civil society actors; ensure that all legislation affecting their ability to work complies with relevant international human rights laws and standards and with the Declaration on Human Rights Defenders; and use, among other tools, indicators on the exercise of public freedoms developed by OHCHR;**[68]

(c) **Allow unregistered associations to operate and provide for minimal legal and administrative provisions that favour simple notification to an independent administrative body and accessible to all at little or no cost;**

(d) **Ensure access to justice through an independent and effective judiciary, as well as access to national human rights institutions that conform to the Paris Principles and to regional and international human rights mechanisms;**

(e) **Introduce systems for co-regulation or self-regulation in areas where civic space issues can be managed by civil society organizations;**

[68] A list of illustrative indicators on freedom of opinion and expression and the right to participate in public affairs can be found in *Human Rights Indicators: A Guide to Measurement and Implementation* (New York and Geneva, OHCHR, 2012). See also www.ohchr.org/EN/Issues/Indicators/Pages/HRIndicatorsIndex.aspx.

(f) Ensure that all counter-terrorism measures that have an impact on civil society comply with all relevant international human rights law and standards.

85. In the context of a conducive public and political environment, Member States should:

(a) Demonstrate high-level political support for the independence and diversity of civic activity through public statements and public information campaigns;

(b) Develop and implement national action plans for the implementation of the United Nations Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework, including commitments to promote and incentivize respect and support by business for civil society actors, domestically and abroad;

(c) Ensure accountability for any acts of intimidation or reprisal against civil society actors by ensuring prompt, thorough and impartial investigations and bringing perpetrators to justice;

(d) Develop or update a national policy framework and action plan to guide implementation of the recommendations formulated in the present report and of all international human rights law and standards relevant to civil society space.

86. In the context of access to information, Member States should:

(a) Enact clear laws, regulations and policies that guarantee the proactive disclosure of information held by public bodies, including those exercising public functions, and provide a general right to request and receive such information, subject only to clearly and narrowly defined exceptions in accordance with international human rights law and standards; guarantee the right to access information held by private bodies where it is essential to the exercise or protection of human rights; and provide a right to appeal to an independent body for any refusal to disclose information;

(b) Provide training for public officials on implementation of the right of access to information and disseminate information to the public on the right to access and the processes for achieving it.

87. In the context of participation in policy development, planning and decision-making, Member States should:

(a) Recognize the right to participation in public decision-making processes in legislation. This should include timely, clear, accurate and adequate information, with messages and questions that are easily understood; extensive dissemination of the outcome, accompanied by a description of the processes; the rationale for accepting or rejecting civil society proposals or input; opportunities for feedback and redress; and provision of adequate budgets for participation;

(b) Develop national action plans on engagement with civil society actors that oblige all public actors to consult with civil society in policy development and implementation;

(c) Integrate new forms of participation through the use of ICT and social media as a means to enable equal access to information and broad-based consultations;

(d) Systematically assess whether proposed legislative or policy reforms would have a negative impact on women or contain gender-specific elements or would affect specific sectors of the population;

(c) **Provide training and guidelines for public officials to support timely and effective consultation processes.**

88. **In the context of the provision of long-term support and resources for civil society organizations, Member States should:**

(a) **Recognizing that undue restrictions to funding is a violation of the right to freedom of association, ensure that civil society actors can seek, receive and use funding and other resources, whether domestic or foreign, without prior authorization or other undue impediments;[69] where no restrictions on the receipt of foreign funds apply to State institutions or businesses, the same should apply to civil society organizations;**

(b) **Provide core flexible funding to civil society organizations, with simplified procedures, and channel any funding for civil society activity via open and transparent processes;**

(c) **Within the framework of diligent financial practices, adopt tax exemptions for civil society organizations and tax incentives for donors and facilitate favourable banking terms that allow for cross-border transfers;**

(d) **Integrate human rights and civic education in curricula and training programmes at all levels.**

B. For regional and international entities

89. Regional and international entities should:

(a) **Ensure safe premises for civil society and provide advice in cases of threats, intimidation or reprisals;**

(b) **Throughout their activities and processes, provide for the effective participation of civil society, in conformity with international standards of non-discrimination, the freedoms of expression, association and peaceful assembly and the right to participate in public affairs;**

(c) **Expand the transparency, through such means as webcasting, of public meetings, including, for example, meetings of the Committee on Non-Governmental Organizations of the Economic and Social Council;**

(d) **Mainstream regular monitoring, review and public reporting on civic space issues and challenges across all entities.**

[69] See http://freeassembly.net/wp-content/uploads/2015/05/Funding-report-factsheet-final.pdf.